

# Policies and Procedures



Exceptional Student Services  
Arizona Department of Education  
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# SPECIAL EDUCATION POLICIES

Secure Care ( \_\_\_\_\_ ), Educational Section, will take appropriate steps to ensure compliance with the following policies. However, nothing contained in these policies are intended to or will limit the authority of this agency of its primary responsibility of secure care, custody and control of (Students/Inmates).

Concerning the issues of Special Education Placement, Individual Education Programs (IEP's), Least Restrictive Environment (LRE) (Agency Name) may modify the delivery of special education services to eligible students (18 – 22 year olds incarcerated in an adult correctional facility) if (Agency Name) has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

## FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

### Policy assures that:

- A. Our agency ensures that all students with a disability under the age 22 within our facilities have the right to a free appropriate public education (FAPE), including students with a disability who are advancing from grade to grade.

## CHILD FIND

### Policy assures that:

- A. All students with a disability who are in need of special education and related services shall be identified, located and evaluated [34 Code of Federal Regulations ("C.F.R.") § 300.125]
- B. A practical method shall be developed and implemented to determine which students are currently receiving needed special education and related services [34 C.F.R. § 300.125].
- C. This policy applies to highly mobile students with a disability and students who are suspected of being students with a disability under § 300.7 and in need of special education, even though they are advancing from grade to grade [34 C.F.R. § 300.125].

## EVALUATION AND ELIGIBILITY DETERMINATION

### Policy assures that:

- A. A full individual initial evaluation shall be conducted for each student before the initial provision of special education and related services to a student with a disability [34 C.F.R. § 300.531]:
  - 1. to determine if the student is a "student with a disability" under §§ 300.7, 300.531 and Arizona Revised Statutes ("A.R.S.") § 15-761.
  - 2. to determine the educational needs of the student.
- B. Procedures shall be established for conducting evaluations in accordance with the requirements described in §§ 300.532, 300.536 and § 15-766.
- C. The student's Multidisciplinary Evaluation Team/Individual Evaluation Program (MET/IEP) team and other qualified professionals shall review existing evaluation data, and collect additional data, if necessary, and use the results of the evaluation to

determine category of eligibility and the need for special education and related services [34 C.F.R. §§ 300.7, 300.534, 300.535, or; A.R.S. §§ 15-761 and 15-766].

- D. The MET/IEP team shall use the results of the evaluation to develop the initial IEP or to review and revise an existing IEP [34 C.F.R. §§ 300.340, 300.350 and A.R.S. § 15-761].
- E. A reevaluation of each student shall be conducted every three years in accordance with §§ 300.532, 300.534-300.536.

### **INDIVIDUALIZED EDUCATION PROGRAMS (IEP)**

Due to the confinement of students in one of the Secure Care facilities, the IEP Team may need to modify the IEP due to a security or compelling penological interest that cannot otherwise be accommodated. Any modifications will be documented on the IEP. (18 – 22 year olds incarcerated in an adult correctional facility) [34 C.F.R. § 300.311]

The policy assures that:

- A. An individualized education program (IEP) shall be in effect for each student with a disability at the beginning of each school year [34 C.F.R. § 300.342].
- B. Meetings shall be initiated and conducted for the purpose of developing, reviewing, and revising the IEP of a student with a disability [34 C.F.R. §§ 300.343, 300.344, 300.346, 300.349 and 300.311].
- C. An IEP shall be developed and implemented for each eligible student served by the public agency. [34 C.F.R. §§ 300.342, 300.346, 300.347, 300.349].
- D. A student with a disability will be invited to each IEP meeting and will be afforded the opportunity to participate [§§ 300.344, 300.345].

### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

Changes in placement may occur when there is a security or penological interest relating to LRE. The IEP Team will review placement and document any changes. [34 C.F.R. § 300.311].

The policy assures that:

- A. To the maximum extent appropriate, students with a disability in public or private institutions or other care facilities are educated with students who are not disabled [34 C.F.R. § 300.550].
- B. Special classes, separate schooling, or other removal of students with a disability from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes, even with the use of supplementary aids and services cannot be achieved satisfactorily [34 C.F.R. § 300.550 and Arizona Administrative Code (“A.A.C”) R7-2-401].

### **PROCEDURAL SAFEGUARDS**

Policy assures that:

- A. The public agency ensures that students with a disability are guaranteed procedural safeguards with respect to the provision of a free appropriate public education [34 C.F.R. § 300.500(a)].

- B. The student with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE [34 C.F.R. § 300.501(a)(1)].
- C. The public agency ensures that the students with a disability are members of any group that makes decisions on the educational placement [34 C.F.R. § 300.501(c)].
- D. Students with a disability have the right to obtain an independent educational evaluation [34 C.F.R. § 300.502(a)(1)].
- E. A copy of the procedural safeguards notice shall be given to the student, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, reevaluation of the student, and receipt of a request for due process under §§ 300.507 and §§ 300.504(a).
- F. Student consent shall be obtained if after a review of existing information, additional data is needed for an initial evaluation or reevaluation, and before initial provision of special education and related services [34 C.F.R. § 300.505(a)(1)].
- G. A student or a public agency may initiate a due process hearing on any of the matters described in § 300.503(a)(1) and relating to the identification, evaluation, educational placement of a student with a disability, and provision of FAPE [34 C.F.R. § 300.507(a)(2)].

### **CONFIDENTIALITY OF INFORMATION**

#### **The policy assures that:**

- A. Students may inspect and review any educational records relating to themselves that are collected, maintained or used by the agency. Without unnecessary delay, the public agency shall comply with the student's request and in no case more than 45 days after request [34 C.F.R. § 300.562].
- B. Procedures shall be established and implemented to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages [34 C.F.R. § 300.572(a)].
- C. Students may request an amendment of records if they believe information in records is inaccurate, misleading or violates the privacy or other rights of themselves [34 C.F.R. § 300.567].

### **EXTENDED SCHOOL YEAR (ESY) SERVICES**

Even though, this agency provides educational services year around, ESY is determined on an individual basis.

### **GRADUATION AND PUPIL-TEACHER RATIOS**

Our agency establishes the following policy regarding allowable pupil-teacher ratios as one teacher to \_\_\_\_\_ [A.R.S. § 15-764 (A)(5)].

## **DISCIPLINE**

### **Policy assures that:**

- A. If a change in educational placement for disciplinary removal occurs for a student with a disability, the public agency shall provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP [34 C.F.R. § 300.121 (d)].
- B. When a student with a disability is removed from his or her current educational placement, a change of placement occurs if:
  - 1. the removal is for more than 10 consecutive school days; or
  - 2. the series of removals constitute a pattern because they cumulate to more than 10 school days in a school year, because of such factors as length of each removal, total amount of time, or proximity of the removal to one another [34 C.F.R. § 300.519].
- C. When the removal of a student with a disability constitutes a change of placement, a review of the placement shall be conducted regarding the relationship between the student's disability and the behavior subject to the disciplinary action [34 C.F.R. § 300.523].
- D. A student who has not been determined eligible for special education and who engages in behavior that violates any rules or code of conduct may assert any of the protections of a student with a disability pursuant to § 300.527.

# SPECIAL EDUCATION PROCEDURES

Secure Care ( \_\_\_\_\_ ), Educational Section, will take appropriate steps to ensure compliance with the following procedures. However, nothing contained in these procedures are intended to or will limit the authority of this agency of its primary responsibility of care, custody and control of (Juveniles/Inmates).

Concerning the issues of Special Education placement, Individual Education Programs (IEP's), Least Restrictive Placements (LRE), Agency Name may modify the delivery of special education services to eligible students (18 – 22 year olds incarcerated in an adult correctional facility) if (Agency Name) has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated [34 Code of Federal Regulations ("C.F.R.") § 300.311].

## FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

The term "free appropriate public education" or FAPE means special education and related services that:

- a. are provided at public expense, under public supervision and direction, and without charge;
- b. meet the standards of the State education;
- c. include elementary school or secondary school education; and
- d. are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.340 and 300.350.

### Procedures include:

#### Free appropriate public education (FAPE) [34 C.F.R. § 300.121]

1. FAPE will be made available to each student with disabilities who is in need of special education and related services even though the student is advancing from grade to grade [§§ 300.121(a), 300.121(e)(1)]. The determination that a student is eligible for special education must be made on an individual basis by the group responsible within the public agency for making those determinations.
2. Services in accordance with § 300.121 will be made available for a student with a disability who has been removed from his or her current educational placement for disciplinary reasons for more than 10 school days.
3. FAPE will be made available to students who have graduated, but have not been awarded a regular high school diploma [§ 300.122].

#### Exception to FAPE for certain ages [34 C.F.R. §300.122]

**General.** The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

1. Children ages 3, 4, 5, 18, 19, 20, 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or

- the order of any court, respecting the provision of public education to children in one or more of those age groups.
2. Students aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility –
    - a. were not actually identified as being a child with a disability under § 300.7; and
    - b. did not have an IEP under Part B of the Act.
  3. The exception in paragraph (a)(2)(i) of this section does not apply to students with disabilities, aged 18 through 21, who –
    - a. had been identified as a child with disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
    - b. did not have an IEP in their last educational setting, but who had actually been identified as a “child with a disability” under § 300.7
  4. Students with disabilities who have graduated from high school with a regular high school diploma
    - a. The exception in paragraph (a)(3)(i) of this section does not apply to students who have graduated but have not been awarded a regular high school diploma
    - b. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with § 300.503.

## **CHILD FIND**

### **Procedures include:**

1. The agency will maintain documentation of the public awareness efforts to inform the public and students within their jurisdiction of the availability of special education services [34 C.F.R. § 300.125, Arizona Administrative Code (“A.A.C.”) R7-2-401].
2. Screening activities will be implemented for all new students and those transferring without sufficient records.
3. The screening will be completed within 45 days.
4. The screening will include consideration of academic or cognitive, vision, hearing, communication, adaptive, emotional and psychomotor domains [R7-2-401 (D)(6)].
5. The public agency will maintain documentation and annually report the number of students with a disability within each disability category that have been identified, located and evaluated [§ 300.125]. The collection and use of data to meet these requirements are subject to the confidentiality requirements of §§ 300.560 and 300.577.

## **EVALUATION AND ELIGIBILITY DETERMINATION**

### **PROCEDURES FOR INITIAL EVALUATION AND REEVALUATION AND ELIGIBILITY DETERMINATION**

**Procedures include:**

#### **Procedures for initial evaluation [34 C.F.R. §§ 300.531, 300.532]**

1. Tests and other evaluation materials used to assess a student are:
  - a. selected and administered so as not to be discriminatory on a racial or cultural basis; and
  - b. provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.
2. Materials and procedures used to assess a student with limited English proficiency will be selected and administered to measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.
3. A variety of assessment tools and strategies will be used to gather relevant functional and developmental information about the student, including information provided by the student.
4. Information related to enabling the student to be involved in and progress in the general curriculum will be included.
5. The information gathered will assist in determining whether the student is a student with a disability and developing the student's IEP.
6. Any standardized tests that are given to a student will be:
  - a. validated for the specific purpose for which they are used; and
  - b. administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
7. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions will be included in the evaluation report.
8. Tests and other evaluation materials will be selected to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
9. Tests will be selected and administered to a student with impaired sensory, manual, or speaking skills to accurately reflect the test results of the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
10. No single procedure will be used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student.
11. The student will be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance,



communicative status, and motor abilities and the need for assistive technology.

12. The evaluation will be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified.
13. Technically sound instruments will be used that may assess the cognitive and behavioral factors, in addition to physical or developmental factors.
14. Assessment tools and strategies will be used to provide relevant information that directly assists persons in determining the educational needs of the student.

**Re-evaluation [34 C.F.R. §§ 300.334, 300.536, 300.543]**

15. A reevaluation will be conducted every three years **or** if conditions warrant a reevaluation, if the student or teacher requests a reevaluation, or before determining that the student is no longer a student with a disability.
16. A reevaluation will be not required before the termination of a student's eligibility due to graduation with a regular high school diploma, or when a student exceeds the age eligibility for FAPE under the State law.

**Determination of needed evaluation data for initial evaluation and reevaluation [34 C.F.R. § 300.533 and Arizona Revised Statutes ("A.R.S.")§ 15-766]**

17. The MET/IEP team and other qualified professionals, as appropriate, will review existing data on the student, including:
  - a. evaluations and information provided by the parents of the student;
  - b. current classroom-based assessments and observations; and
  - c. observations by teachers and related services providers.
18. On the basis of that review, and input from the student's parents, the MET/IEP team and other qualified professionals will identify what additional data, if any, are needed to determine eligibility.

**If the determination is that no additional data is needed**

19. The public agency will notify the student:
  - a. of that determination and the reasons for it; and
  - b. of the right of the student to request an assessment to determine whether the student continues to be a student with a disability.
20. No assessment will be **required** unless requested by the student to determine eligibility.
21. The MET/IEP team will provide a copy of the evaluation report and documentation of eligibility to the students.

**If additional data are needed**

22. The MET/IEP team will provide procedural safeguards notice, prior written notice, and obtain informed student consent.

23. The public agency will administer tests and other evaluation materials as may be needed to determine if the student is a student with a disability under § 300.7 and § 15-761.

**Determination of eligibility [34 C.F.R. §§ 300.533, 300.536, 300.540 and A.R.S. § 15-761]**

24. The MET/IEP team and other qualified professionals and the student will determine whether the student has a disability, or continues to be a student with a disability, as defined in § 300.7 and § 15-761.
25. Based on the review of data and input from the student, the MET/IEP team determines:
  - a. if the student has a category of disability, or in the case of reevaluation, if the student continues to have a disability;
  - b. if the student needs special education and related services, or in the case of a reevaluation, if the student continues to need special education and related services;
  - c. the present levels of performance and other educational needs of the student; and
  - d. if any additions or modifications to the special education and related services will be needed to enable the student to meet the measurable annual goals established in the IEP and to participate in the general curriculum, as appropriate.
26. In interpreting evaluation data for the purpose of determining if a student is a student with a disability, the MET/IEP will draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and consider and document all information obtained from all of these sources.
27. A student may not be determined to be eligible if:
  - a. the determinant factor for the eligibility determination is:
    - i. lack of instruction in reading or math;
    - ii. limited English proficiency; and
  - b. the student does not otherwise meet the eligibility criteria under §§ 300.7, 300.543 and § 15-761.
28. For a student suspected of having a specific learning disability, the documentation of the team's determination of eligibility will include:
  - a. whether the student has a specific learning disability;
  - b. the basis for making the determination;
  - c. the relevant behavior noted during the observation of the student;
  - d. the relationship of that behavior to the student's academic functioning;
  - e. the educationally relevant medical findings, if any;
  - f. whether there is severe discrepancy between achievement and ability that is not correctable without special education and related services;
  - g. the determination of the team concerning the effects of environment, cultural or economic disadvantage; and
  - h. each team member will certify in writing whether the report reflects his/her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion.

## **Evaluation Report**

29. The MET/IEP team and other qualified professionals, including the student, will determine whether the student is a student with a category of disability or, in the case of a reevaluation, if the student continues to be a student with a disability, as defined in § 300.7 and § 15-761.
30. The evaluation report will include:
  - a. a review of current evaluations, including types of tests and results of those test;
  - b. educational history including the reason for referral, current classroom-based assessments, and observations by teachers and related service providers;
  - c. information provided by the parents, including medical and developmental history; and
  - d. determination of whether the student's educational problems are related to or resulting from reason of educational disadvantage.
31. The MET/IEP team will provide a copy of the evaluation report and the documentation of determination of eligibility to the student.
32. The evaluation report will also include general information pertaining to:
  - a. whether the student has a category of disability or, in the case of reevaluation, if the student continues to be a student with a category of disability;
  - b. the present levels of performance and educational needs;
  - c. whether the student needs special education and related services or continues to need special education and related services; and
  - d. whether any additions and modifications to special education and related services are needed to meet the measurable annual goals established in the IEP and to participate, as appropriate, in the general curriculum.

## **INDIVIDUALIZED EDUCATION PROGRAMS (IEP)**

### **PROCEDURES FOR DEVELOPMENT AND IMPLEMENTATION OF THE IEP**

**Due to the confinement of students, the IEP Team may need to modify the IEP due to a security or compelling penological interest that cannot otherwise be accommodated. Any modifications will be documented on the IEP (18 – 22 year olds incarcerated in an adult correctional facility) [34 C.F.R. § 300.311].**

**When IEP must be in effect [34 C.F.R. § 300.342] and IEP meetings [34 C.F.R. § 300.343]**

1. An IEP will be in effect before special education and related services are provided to an eligible student under § 300.342.
2. The IEP will be implemented as soon as possible following the IEP meeting.
3. The student's IEP will be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.
4. Each teacher and provider will be informed of:

- a. his or her specific responsibilities related to implementing the student's IEP; and
  - b. the specific accommodations, modifications, and supports that will be provided for the student in accordance with the IEP [§ 300.342].
- 5. A meeting to develop an IEP for the student with a disability will be conducted within 30 days of a determination that the student needs special education and related services.

**Review and revision of the IEP's [34 C.F.R. § 300.343(c)]**

- 6. The IEP team will review the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved.
- 7. The IEP team will revise the IEP as appropriate to address:
  - a. any lack of expected progress toward the annual goals described in § 300.347(a) and in the general curriculum;
  - b. the results of any reevaluation conducted under § 300.536;
  - c. the student's anticipated needs; or
  - d. other matters.

**IEP team [34 C.F.R. § 300.344]**

- 8. The IEP team for each student with a disability will include:
  - a. the parents of the student;
  - b. at least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment);
  - c. at least one special education teacher of the student, or if appropriate, at least one special education provider of the student;
  - d. a representative of the public agency who:
    - i. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with a disability;
    - ii. is knowledgeable about the general curriculum; and
    - iii. is knowledgeable about the availability of resources of the public agency;
  - e. an individual who can interpret the instructional implications of evaluation results;
  - f. at the discretion of the student or the agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of whether an individual has knowledge or special expertise shall be made by the party (student or public agency) who invited the individual to be a member of the team; and
  - g. if appropriate, the student.

**Transition service participants [34 C.F.R. § 300.344]**

- 9. A student of any age may be invited to his or her IEP meeting if the purpose will be consideration of transition services needs or transition services [§ 300.347(b)(1-2)].
  - a. If the student does not attend the IEP meeting, the public agency will take other steps to ensure that the student's preferences and interests are considered.

10. In implementing the requirements of § 300.347(b)(2):
  - a. the public agency also will invite a representative of any other agency that is likely to be responsible for providing or paying for transition services;
  - b. if an agency invited to send a representative to a meeting does not do so, the public agency will take other steps to obtain participation of the other agency in the planning of any transition services.

**Student's participation [34 C.F.R. § 300.345]**

11. Students will be present or afforded the opportunity to participate in each IEP meeting. Efforts will include:
  - a. notifying student's of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b. scheduling the meeting at a mutually agreed on time and place.
12. The meeting notice will:
  - a. indicate the purpose, time, and location of the meeting and who will be in attendance; and
  - b. inform the student of the provisions in § 300.344(a)(6) and (c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student.
13. For a student with a disability beginning at age 14 (or younger, if appropriate) the notice will also:
  - a. indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in § 300.347(b)(1); and
  - b. indicate that the agency will invite the student.
14. For a student with a disability beginning at age 16 (or younger, if appropriate) the notice will:
  - a. indicate that a purpose of the meeting is the consideration of needed transition services for the student required in § 300.347(b)(2);
  - b. indicate that the agency will invite the student; and
  - c. identify any other agency that will be invited to send a representative.
15. If the student cannot attend, the public agency will use other methods to ensure student participation, including individual or conference telephone calls.
16. A meeting may be conducted without a student in attendance if the public agency is unable to convince the student that they should attend. In this case, the public agency will have a record of its attempts to arrange a mutually agreed on time and place, such as:
  - a. detailed records of telephone calls made or attempted and the results of those calls;
  - b. copies of correspondence sent to the student and any responses received; and
  - c. detailed records of visits made to the parent's home or place of employment and the results of those visits.
17. The public agency will take whatever action is necessary to help the student understand the proceedings at the IEP meeting, including

arranging for an interpreter for parents with deafness or whose native language is other than English.

18. The public agency will give the student a copy of the student's IEP at no cost to the student.

**Development, review, and revision of IEP [34 C.F.R. § 300.346]**

19. In developing each student's IEP, the IEP team will consider:
  - a. the strengths of the student and the concerns of the student's for enhancing their education;
  - b. the results of the initial or most recent evaluation of the student; and
  - c. as appropriate, the results of the student's performance on any general State or district-wide assessment programs.
20. In consideration of special factors, the IEP team also will:
  - a. in the case of a student whose behavior impedes his or her learning or that of others, consider strategies (including positive behavioral interventions, strategies, and supports) to address that behavior;
  - b. in the case of a student with limited English proficiency, consider the language needs of the student as those needs relate to the student's IEP;
  - c. in the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the student;
  - d. consider the communication needs of the student;
  - e. in the case of a student who is deaf or hard of hearing, consider:
    - i. the student's language and communication needs;
    - ii. opportunities for direct communications with peers and professional personnel in the student's language and communication mode; and
    - iii. academic level and full range of needs, including opportunities for direct instruction in the student's language and communication mode;
  - f. consider whether the student requires assistive technology devices and services; and
  - g. if the IEP team, in considering the special factors, determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive FAPE, the IEP team must include a statement to that effect in the student's IEP.
21. The regular education teacher of a student with a disability, as a member of the IEP team, will to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:
  - a. appropriate positive behavioral interventions and strategies for the student; and

- b. supplementary aids and services, program modifications, or supports for school personnel that will be provided for the student, consistent with § 300.347(a)(3).

**Content of IEP [34 C.F.R. § 300.347]**

- 22. The IEP for each student with a disability will include:
  - a. a statement of the student's present levels of educational performance, including:
    - i. how the student's disability affects the student's involvement and progress in the general curriculum; and
  - b. a statement of measurable annual goals (statement of amount of progress expected), including benchmarks (major milestones), or short-term objectives (measurable intermediate steps), related to:
    - i. meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum (i.e., the same curriculum as for non-disabled students); and
    - ii. meeting each of the student's other educational needs that result from the student's disability;
  - c. a statement of the special education and related services to be provided;
  - d. a statement of supplementary aids and services to be provided to the student or on behalf of the student (services provided to the student or teachers of the student to help them more effectively work with the student);
  - e. a statement of the program modifications or supports for school personnel that will be provided for the student:
    - i. to advance appropriately toward attaining the annual goals;
    - ii. to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities [Least Restrictive Environment (LRE)]; to be educated and participate with other student with disabilities and non-disabled student in extracurricular and other nonacademic activities (LRE);
  - f. an explanation of the extent, if any, to which the student will not participate with non-disabled student in the regular class and in extracurricular and other nonacademic activities (LRE);
  - g. a statement of any individual accommodations and modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment (LRE);
  - h. if the IEP team determines that the student will **not** participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of:
    - i. why that assessment is not appropriate for the student; and
    - ii. how the student will be assessed;
  - i. the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications; and
  - j. a statement of:
    - i. how the student's progress toward the annual goals will be measured;

- ii. how the student will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their non-disabled student's progress, of:
    - 1) the student's progress toward the annual goals; and
    - 2) the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.
- 23. The IEP will include transition service planning as follows:
  - a. for each student with a disability beginning at age 14 (or younger), a statement of the transition service needs of the student under the applicable components of the student's IEP that focus on the student's courses of study (such as participation in advanced-placement courses or a vocational education program);
  - b. the statement of transition service needs will be updated annually;
  - c. for each student beginning at age 16 (or younger), a statement of needed transition services for the student;
  - d. a statement of the interagency responsibilities or any needed linkages will be included, if appropriate.
- 24. Beginning at least one year before a student reaches the age of 18, the student's IEP will include a statement that the student has been informed of the rights, if any, that will transfer to the student on reaching the age of 18, consistent with § 300.517.
- 25. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP, the public agency will reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
- 26. The IEP team may modify the IEP and placement of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison, if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
- 27. The IEP for a student who requires residential placement will include exit criteria that indicate when the educational placement of the student will be reviewed to determine if the student can move to a less restrictive placement [A.R.S. § 15-765(K)].

**IEP accountability [34 C.F.R. § 300.350]**

- 28. The public agency will provide special education and related services to a student with a disability in accordance with the student's IEP.
- 29. The public agency will make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

**LEAST RESTRICTIVE ENVIRONMENT (LRE)**

**Changes in placement may occur when there is a security or penological interest that cannot be accommodated. The IEP Team will review placement and document any changes (18 – 22 year olds incarcerated in an adult correctional facility) [34 C.F.R. § 300.311].**

**Supplementary aids and services** as used in this section means aids, services, and other supports that are provided in regular education classes or other education-related



settings to enable the student with a disability to be educated with non-disabled students to the maximum extent appropriate in accordance with §§ 300.550 and 300.554.

**Procedures include:**

**Continuum of educational placements [34 C.F.R. § 300.551]**

1. A continuum of alternative placements for K-12 special education and related services will include:
  - a. regular classes with supplementary aids and services;
  - b. regular classes with resource or itinerant support;
  - c. special classes;
  - d. special schools;
  - e. home instruction;
  - f. instruction in hospitals; and
  - g. instruction in institutions.

**Placement of a student with a disability [34 C.F.R. § 300.552 and A.A.C. R7-2-401 (G)]**

2. Special education placement decision for a student with a disability, including a preschool student with a disability, will be made by a group of persons that includes:
  - a. the student;
  - b. persons who are knowledgeable about the student;
  - c. persons who are knowledgeable of evaluation data, and
  - d. persons who are knowledgeable of placement options.
3. Special education placements will:
  - a. be determined at least annually;
  - b. be based on the student's IEP; and
4. The student will be educated in the school that he or she would attend if not disabled unless the IEP requires some other arrangement.
5. The public agency will document consideration of any potential harmful effects of the placement on the student or the quality of services.
6. A student with a disability will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

**Nonacademic settings and services [34 C.F.R. §§ 300.553, 300.306]**

7. Students with a disability will participate with non-disabled students in nonacademic and extracurricular services and activities, which may include meals, recess periods, and the services, and activities to the maximum extent appropriate to the needs of that student.
8. Students with a disability will have available to them the variety of educational programs and services available to non-disabled students in the areas served by the public agency in nonacademic and extracurricular services and activities in the manner necessary to afford a student with a disability an equal opportunity for participation in those services and activities [§ 300.305].

9. Students with a disability will participate with non-disabled students in and extracurricular services and activities which may include: counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities and employment of students, including both employment by the public agency and assistance in making outside employment available.

### **PROCEDURAL SAFEGUARDS**

#### **Procedures include:**

1. "Consent" means:
  - a. the student is fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;
  - b. the student understands and agrees in writing to the activity for which consent is sought;
  - c. the consent describes the activity;
  - d. the consent lists the records (if any) that will be released and to whom;
  - e. the student understands that the consent is voluntary and may be revoked at any time;
  - f. if a student revokes consent, that the revocation is not retroactive, meaning that the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked [§ 300.500(b)(1)];
  - g. student consent for initial evaluation will not be construed as consent for initial placement [§ 300.505(2)].
2. "Evaluation" means procedures used in accordance with §§ 300.530-300.536 to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs [§ 300.500(b)].
3. "Personally identifiable" means that the information includes:
  - a. the name of the student, the student's parent, or other family member;
  - b. the address of the student;
  - c. a personal identifier, such as the student's social security number or student number;
  - d. a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty [§ 300.500(b)(3)].
4. "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student [§ 300.502(a)(3)].
5. "Public expense" means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the student, consistent with FAPE [§§ 300.502(a)(3), 300.301].

#### **Student participation in meetings [34 C.F.R. §§ 300.345, 300.501]**

6. The public agency will take steps to ensure that the student is present at each meeting or are given the opportunity to participate by:
  - a. notifying student's of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b. scheduling the meeting at a mutually agreed time and place [§300.345(a)].
7. The meeting notice will:
  - a. indicate the purpose, time, and location of the meeting;
  - b. indicate who will be in attendance;
  - c. inform the students of the provisions in § 300.344(a)(c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student [§ 300.345(b)(1)(2)].

**Student involvement in placement decisions [34 C.F.R. § 300.501]**

8. The public agency will make reasonable efforts to ensure that the student understands, and is able to participate in, any group discussions relating to the educational placement, including arranging for an interpreter for students with deafness, or whose native language is other than English [§ 300.501(c)(5)].
9. If students cannot participate in a meeting in which a decision is to be made relating to the educational placement of their student, the public agency will use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing [§ 300.501(c)(3)].
10. If the public agency is unable to obtain the student's participation in the placement decision, the public agency will have a record of its attempt to ensure their involvement [§§ 300.345(d), 300.501(c)(4)].

**Independent educational evaluation [34 C.F.R. § 300.501]**

11. If a student requests an independent educational evaluation at public expense, the public agency will, without unnecessary delay, **either**:
  - a. initiate a due process hearing under § 300.507 to show that the agency's evaluation is appropriate, **or**
  - b. ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a due process hearing under § 300.507 that the evaluation obtained by the parent did not meet agency criteria [§§ 300.502(b)(2)(i) and (ii)].
12. Upon request for an independent educational evaluation, the public agency will provide to students:
  - a. information about where an independent educational evaluation may be obtained; and
  - b. the agency criteria [§ 300.502(a)(2)].
13. If the student obtains an independent educational evaluation at private expense, the results of the evaluation:
  - a. will be considered by the public agency in any decision made with respect to the provision of FAPE to the student; and
  - b. may be presented as evidence at a hearing regarding the student [§§ 300.502(c)(1) and (2)].

14. Cost of the independent educational evaluation will be at public expense if requested by a hearing officer [§ 300.502(d)].

**Agency criteria [34 C.F.R. § 300.502]**

15. If an independent educational evaluation is at public expense:
  - a. the criteria under which the evaluation is obtained will be the same as the criteria the public agency uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner;
  - b. the criteria will be consistent with the student's right to an independent educational evaluation [§ 300.502(e)(1)]; and
  - c. the agency may establish a range of payment for independent educational evaluations.
16. The public agency will not impose other conditions or timelines related to obtaining an independent educational evaluation at public expense [§ 300.502(e)(2)].

**Prior notice by the public agency [34 C.F.R. § 300.503]**

17. Prior written notice will be given to students a reasonable time before the public agency **proposes or refuses** to initiate or change the:
  - a. identification;
  - b. evaluation;
  - c. educational placement of a student with a disability; and
  - d. provision of FAPE [§ 300.503(a)(1)].
18. Prior written notice will be given to the student at the same time the public agency requests student consent, if the prior written notice relates to an action proposed by the agency that also requires student consent [§ 300.503(a)(2)].
19. The content of the prior written notice will contain:
  - a. a description of the action proposed or refused by the agency;
  - b. an explanation of why the agency proposes or refuses to take the action;
  - c. a description of any other options that the agency considered and the reasons why those options were rejected;
  - d. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;
  - e. a description of any other factors that are relevant to the agency's proposal or refusal;
  - f. a statement that the student with a disability has protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
  - g. sources for students to contact to obtain assistance in understanding these provisions [§§ 300.503(b)(1-7)].
20. The prior written notice will be written in language understandable to the general public [§ 300.503(c)(1)(i)].
21. The prior written notice will be provided in the native language of the student or other mode of communication used by the student, unless it is clearly not feasible to do so [§ 300.503(c)(1)(ii)].

22. If the native language or other mode of communication of the student is not a written language, the public agency will take steps to ensure:
- that the prior written notice is translated orally or by other means to the student in his or her native language or other mode of communication;
  - that the student understands the content of the prior written notice;
  - that there is written evidence that the requirements of (a) and (b) have been met [§§ 300.503(c)(2)(i-iii)].

**Procedural safeguards notice [34 C.F.R. § 300.504]**

23. A copy of the procedural safeguards notice will be given to the student , at a minimum:
- upon initial referral for evaluation;
  - upon each notification of an IEP meeting;
  - upon reevaluation of the student;
  - upon receipt of a request for due process under §§ 300.507 and 300.504(a)(1-4).
24. The procedural safeguards notice will include a full explanation of all of the procedural safeguards available under the law, relating to:
- independent educational evaluation;
  - prior written notice;
  - student consent;
  - access to educational records;
  - opportunity to present complaints to initiate due process hearings;
  - the student's placement during pendency of due process proceedings;
  - procedures for students who are subject to placement in an interim alternative educational setting;
  - requirements for unilateral placement by students in private schools at public expense;
  - mediation;
  - due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - State-level appeals (if applicable);
  - civil actions;
  - attorneys' fees; and
  - the State complaint procedures under §§ 300.660-300.662, including a description of how to file a complaint and the timelines under those procedures [§ 300.504(b)(1-14)].
25. The procedural safeguards notice will be written in language understandable to the general public [§ 300.504(c)].
26. The procedural safeguards notice will be provided in the native language of the parent or other mode of communication used by the student, unless it is clearly not feasible to do so [§ 300.504(c)].
27. If the native language or other mode of communication of the student is not a written language, the public agency will take steps to ensure:
- that the procedural safeguards notice is translated orally or by other means to the student in his or her native language or other mode of communication;

- b. that the student understands the content of the procedural safeguards notice; and
- c. that there is written evidence that the requirements of (a) and (b) have been met [§ 300.504(c)].

#### **Student consent [34 C.F.R. § 300.505]**

- 28. Student consent will be obtained if, after a review of existing data, additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services [§ 300.505(a)(1)]. Student consent is not required before reviewing existing data as part of an evaluation or before administering a test or other evaluation that is administered to all students unless such consent is required from the students.
- 29. If the student refuse consent for initial evaluation or reevaluation, the agency may pursue those evaluations by using:
  - a. due process procedures under §§ 300.507 and 300.509; and
  - b. mediation procedures under §§ 300.506 and 300.505(b).
- 30. Informed student consent need **not** be obtained for the gathering of additional data for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent and the student has failed to respond [§ 300.505(c)].
- 31. The reasonable measures taken by the public agency to obtain informed student consent for a reevaluation will include:
  - a. detailed records of telephone calls made or attempted and the results of those calls;
  - b. copies of correspondence sent to the student and any responses received; and
  - c. detailed records of visits made to the parent's home or place of employment and the results of those visits [§ 300.505(c)(2)].
- 32. A public agency will not use a student's refusal to consent to one service or activity under this section to deny the student any other service, benefit, or activity of the public agency, except as required by this part [§ 300.505(e)].

#### **Mediation requirements [34 C.F.R. §§ 300.506]**

- 33. The public agency will ensure that the mediation process:
  - a. is voluntary on the part of the parties;
  - b. is not used to deny or delay a parent's right to a due process hearing under § 300.507, or to deny any other rights afforded under Part B of the Act; and
  - c. is conducted by a qualified and impartial mediator who is trained in effective mediation techniques [§§ 300.506(b)(1)(i-iii)]. Impartiality means that the mediator is not an employee of any public agency or State agency in § 300.194 or the State Education Agency that is providing direct services to a student who is the subject of the mediation process. The mediator must not have a personal or professional conflict of interest. A person is not an employee of a public agency or the State solely because he or she is paid by the agency to serve as a mediator.

34. Either the public agency or student may contact the Arizona Department of Education/Exceptional Student Services to request mediation.
35. Discussions that occur during the mediation process:
  - a. will be confidential; and
  - b. may not be used as evidence in any subsequent due process hearings or civil proceedings [§ 300.506(b)(6)].
36. The parties to the mediation process may request a confidentiality pledge prior to the commencement of the process [§ 300.506(b)(6)].

**Impartial due process hearing; student notice [34 C.F.R. § 300.507 and A.A.C. R7-2-405]**

37. When a due process hearing is initiated under § 300.503 (a)(1), the public agency will inform the students of the availability of mediation described in §§ 300.506 and 300.507(a)(2).
38. The public agency will inform the student of any free or low-cost legal and other relevant services available in the area if:
  - a. the student requests the information; and
  - b. the student or the agency initiates a due process hearing under this section [§§ 300.507(a)(3)(i) and (ii)].
39. The public agency will notify the Arizona Department of Education/Exceptional Student Services when a written request for due process is received [R7-2-405].
40. The due process hearing will be conducted by the public agency directly responsible for the education of the student [§ 300.507(b)].
41. At least 5 business days prior to a due process hearing conducted pursuant to this section, the public agency will disclose to all parties:
  - a. all evaluations completed by that date; and
  - b. recommendations based on the offering party's evaluations that the party intends to use at the hearing [§ 300.509(b)(1)].
42. Students involved in due process hearings have the right to:
  - a. have the student who is the subject of the hearing present; and
  - b. open the hearing to the public [§§ 300.509(c)(1)(i) and (ii)].
43. The record of the due process hearing and the findings of fact and decisions will be provided at no cost to students [§ 300.509(c)(2)].

**Finality of decision; appeal; impartial review [34 C.F.R. § 300.510]**

44. A decision made in a due process hearing conducted pursuant to §§300.507, 300.520 and 300.528 is final, except that any party involved in the hearing may appeal the decision under the provisions of §§ 300.510, 300.512 and 300.510(a).
45. The decision made by the reviewing official is final unless a party brings a civil action under §§ 300.512 and 300.510(d).

**Timelines and convenience of hearings and reviews [34 C.F.R. § 300.511]**

46. The public agency will ensure that **not** later than 45 calendar days after the receipt of a request for a due process hearing:

- a. a final decision will be reached in the hearing, unless the hearing officer grants specific extensions of time at the request of either party; and
  - b. a copy of the decision will be mailed to each of the parties [§§ 300.511(a)(1) and (2)].
- 47. Each due process hearing and each impartial review involving oral arguments will be conducted at a time and place that is reasonably convenient to the parents and student involved [§ 300.511(d)].

**Attorneys' fees [34 C.F.R. § 300.513]**

- 48. The procedural safeguards notice will include a full explanation of all of the procedural safeguards relating to attorneys' fees [§ 300.504(b)(13)].
- 49. Funds under Part B of the Act will not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615 of the Act and subpart E [§ 300.513(b)(1)].

**Student's status during proceedings [34 C.F.R. § 300.514]**

- 50. Except as provided in § 300.526, during the pendency of any administrative or judicial proceeding regarding a due process complaint under § 300.507, unless the State or local agency and the student agree otherwise, the student involved in the due process complaint will remain in his or her current educational placement [§ 300.514(a)].
- 51. If the due process complaint involves an application for initial admission to public school, the student, with the consent of the student; will be placed in the public school until the completion of all the proceedings [§ 300.514(b)].
- 52. If the decision of a hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the student that a change of placement is appropriate, that placement will be treated as an agreement between the State or local agency and the student for purposes of §§ 300.514(a) and 300.514(c).

**Surrogate parents [34 C.F.R. §300.515 and A.R.S. §15-763.01]**

- 53. It is the duty of a public agency to assign an individual to act as a surrogate for the student. This will include a method:
  - a. for determining whether a student needs a surrogate parent; and
  - b. for assigning a surrogate parent to the student [§§ 300.515(b)(1) and (2)].
- 54. A petition for the appointment of a surrogate parent will be made to a court of competent jurisdiction [§ 15-763.01(A)].
- 55. Except as provided in § 300.515(c)(3), public agencies will ensure that a person selected as a surrogate:
  - a. is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the student;
  - b. has no interest that conflicts with the interest of the student he or she represents; and
  - c. has knowledge and skills that ensure adequate representation of the student [§§ 300.515(c)(2)(i-iii) and §15-763.01(B)].



56. The surrogate may represent the student in all matters relating to the:
  - a. identification;
  - b. evaluation;
  - c. educational placement of a student with a disability; and
  - d. provision of FAPE [§§ 300.515(e)(1) and (2)].

**Transfer of parental rights at age of majority [34 C.R.F. § 300.517]**

57. When a student with a disability reaches the age of majority (except for a student with a disability that has been determined to be incompetent under State law):
  - a. the public agency will provide any notice required by this part to both the individual and the parents; and
  - b. all other rights accorded to parents under Part B of the Act transfer to the student [§§ 300.517(a)(1)(i) and (ii)].

**CONFIDENTIALITY OF INFORMATION**

**Procedures include:**

**Confidentiality of information [34 C.F.R. §§ 300.560, 300.576]**

**Access rights [34 C.F.R. § 300.562]**

1. Responses to reasonable requests for explanations and interpretation of educational records will be provided to students.
2. Students will be given copies of records if failure to provide copies would prevent students from inspecting and reviewing records.
3. A student's representative will be given an opportunity to inspect and review the educational records.
4. The public agency may presume the student has authority to inspect and review records relating to his or her student unless the agency has been advised that the student does not have the authority under applicable State law (e.g., guardianship, separation, divorce) [34 C.F.R. § 300.562(c), A.R.S. § 15-761(21), A.A.C. R7-2-405 (8), R7-2-401 (22)].
5. When a student requests, records will be provided without unnecessary delay, before any meeting regarding IEP or any hearing, and in no case more than 45 days after the request.

**Notification of rights eligible students [34 C.F.R. § 300.561]**

6. Notice will be distributed in the native languages of the various population groups in the public agency [§ 300.561(a)(4)].
7. The public agency will inform by publishing a notice or announcement in newspapers or through other media, or both, with circulation adequate to notify local parents before any major identification, location, or evaluation activity [§§ 300.561(b)]. This notice will contain a description of all the rights of the student under the Family Educational Rights and Privacy Act of 1974 and the implementing regulations.

8. The Annual Notice will contain the following components:
  - a. eligible students have the right to inspect and review the student's education record [§§ 99.7, 300.564];
  - b. the procedure for exercising the right to inspect and review the student's education record [§ 99.7] within 45 days [§§ 99.10, 300.521, 300.528];
  - c. eligible students have the right to seek amendment of the student's education record that is believed to be inaccurate, misleading, or in violation of the student's privacy rights [§§ 99.7, 300.567];
  - d. the procedure for requesting amendment of the record [§ 99.7];
  - e. eligible students have the right to give consent before the release of personally identifiable information (except to the extent that the Act and § 99.31 authorize disclosure without consent) [§ 99.7];
  - f. if the agency discloses information in the optional situations without prior consent, the notice must also include specification of criteria for determining who constitutes a school official [§ 99.31(a)], and
  - g. what constitutes a legitimate educational interest [§ 99.7(a)];
  - h. notice that rights regarding records transfer at age 18 [§§ 99.5(a), 300.574(b)];
  - i. a description of the student on whom personally identifiable information is maintained, the types of information sought, the methods the public agency intends to use in gathering the information (including the sources from who information is gathered), and the uses to be made of the information;
  - j. a summary of the procedures that the agency will follow in the storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - k. the process by which a student can exercise the right to file a complaint concerning alleged failures by the agency to comply with FERPA.

**Record of access [34 C.F.R. §300.563] and records on more than one student [34 C.F.R. §300.564]**

9. The public agency will keep records of parties obtaining access to records collected, maintained and used including name, access date, and purpose for access.
10. If a record has information on more than one student, students have a right to inspect and review only the information relating to themselves, or to be informed of that specific information.

**List of type and location of information [34 C.F.R. § 300.565]**

11. The public agency will maintain a list of types and locations of educational records that are collected, maintained, or used and provide a copy of the list upon request [§ 300.565].

**Fees [34 C.F.R. § 300.566]**

12. The public agency will provide copies of records to the student if failure to do so prevents the student from inspecting or reviewing the records [§ 300.562(b)(2)].

13. The public agency may charge for copies if the fee does not prevent inspection or review of the record [§ 300.566(a)].
14. The public agency will not charge a fee to search or retrieve information [§ 300.566(b)].

#### **Amendment of records at student request [34 C.F.R. § 300.567]**

15. A student may request amendment of records if he/she believes that information in an education record is inaccurate, misleading, or otherwise in violation of student privacy or other rights [§§ 99.7, 300.567(a)].
16. The public agency will decide whether to amend information within a reasonable period of time after the receipt of the request [§§ 99.7, 300.567(a)].
17. If the public agency refuses to amend, the student will be informed of the refusal and of the right to a hearing [§ 300.567].

#### **Opportunity for a hearing [34 C.F.R. § 300.568]**

18. If the student requests a hearing, the public agency will provide an opportunity for a hearing to challenge information in records. A hearing held for this purpose must be conducted according to the procedures under § 99.22.

#### **Result of hearing [34 C.F.R. § 300.569]**

19. After a hearing, the agency will inform students in writing of its decision to amend an education record believed to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student [§ 300.569(a)].
20. If the agency makes a decision not to amend an education record, the students will be informed of their right to place within the record a statement commenting on the information or setting forth any reasons for disagreeing with the decisions of the agency [§ 300.569(b)]:
  - a. the agency will maintain the statement with the record or contested portion; and
  - b. if the records are disclosed, the explanation will also be disclosed [§ 300.569].

#### **Safeguards [34 C.F.R. § 300.572]**

21. The public agency will protect the confidentiality of personally identifiable information at collection, storage, disclosure to third parties; retention and destruction stages [§ 300.572(a)].
22. An official will be designated to ensure the confidentiality of any personally identifiable information [§ 300.572(b)].
23. All persons collecting or using personally identifiable information will receive training or instruction regarding policies and procedures under §§ 300.127 and Part 99.
24. The agency will maintain a current list for public inspection of the names and positions of employees within the agency who may have access to personally identifiable information [§ 300.572(d)].

#### **Destruction of information [34 C.F.R. § 300.573]**

25. The public agency will inform the student when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.
26. The agency will destroy the information at the request of the student . However, permanent record of name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

**Student's rights [34 C.F.R. § 300.574]**

27. Student may be afforded rights of privacy similar, taking into consideration the age of the student and type or severity of disability.
28. If the rights accorded to students are transferred to a student with a disability who reaches the age of majority, the rights regarding educational records in will be transferred to the student [§ 99.5(a)].
29. In accordance with the Family Educational Rights and Privacy Act, the rights of parents regarding education records are transferred to the student at age eighteen. The public agency must provide any notice required under section 615 of IDEA to the student and the parents.

**Disciplinary information [34 C.F.R. § 300.576]**

30. The public agency will include in the records of a student with a disability a statement of any current or previous disciplinary action that has been taken against the student.
31. The disciplinary information on students with disabilities will be transmitted to the same extent that disciplinary information is transmitted on non-disabled students.
32. The disciplinary statement may include a description of any behavior engaged in by the student, description of the disciplinary action taken and any other information that is relevant to the safety of the student and other individuals.
33. If a student transfers from one school to another, the transmission of any of the student's records will include the current IEP, current evaluation and any statement of current or previous disciplinary action that has been taken against the student.
34. If a student transfers from one school to another, the transmission of any of the student's records to the receiving school will occur within the timeframe specified in State statutes and will not require the consent of the parent(s) [§§ 15-828(F) and (G)].

**EXTENDED SCHOOL YEAR (ESY) SERVICES**

Even though, this agency provides educational services year around, ESY is determined on an individual basis.

## **PUPIL-TEACHER RATIOS**

### **Procedures include:**

Facility establishes the following policy regarding allowable pupil-teacher ratios as one teacher to \_\_\_\_\_ students [§ 15-764 (A) (5)].

## **DISCIPLINE**

### **Procedures include:**

#### **FAPE for student suspended or expelled [34 C.F.R. §§ 300.121, 300.520]**

1. The public agency may cease services during a removal period to a student with a disability when that student has been removed from his or her current placement for 10 school days or less in a school year, if services are not provided to a student without disabilities who has been similarly removed.
2. For a student with a disability whose placement has not been changed, i.e., who has been removed for more than 10 school days during the school year but these days were not 10 consecutive days or whose removal did not constitute a pattern:
  - a. the public agency will provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the IEP goals; and
  - b. school personnel, in consultation with the student's special education teacher, will determine the extent of services necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the IEP goals [§ 300.121].
3. For a student with a disability whose placement has been changed for disciplinary reasons, i.e., has been removed from his or her current placement for more than 10 consecutive school days in a school year or whose removals constitute a pattern:
  - a. the public agency will provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the IEP goals; and
  - b. the IEP team will determine the extent of services necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the IEP goals [§ 300.121].
4. If a disciplinary action of more than 10 cumulative school days is contemplated for a student with a disability who has engaged in behavior that violated any rule or code of conduct of the public agency and
  - a. the public agency did not conduct a functional behavioral assessment and implement a behavior intervention plan for the student before the behavior occurred, within 10 business days the agency will convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions;
  - b. if the student already has a behavior intervention plan, the IEP team will meet to review the plan and its implementation, and modify the plan to address the behavior [§ 300.520].

**Change of placement for disciplinary removals [34 C.F.R. § 300.519]**

5. For a student with a disability, a change in placement occurs **if**:
  - a. a removal is for more than 10 consecutive school days **or**
  - b. the student is subject to a series of removals that constitute a pattern because of factors such as length of each removal, total amount of time the student is removed and the proximity of the removals to one another [§ 300.519].

**Manifestation determination review [34 C.F.R. § 300.523]**

6. The public agency will conduct a manifestation determination review when the agency is contemplating a change of educational placement for disciplinary reasons, except in cases where the agency believes that there is a legitimate penological interest for those students 18 – 22 years old.
  - a. When the public agency is contemplating a change of educational placement for disciplinary reasons, the agency will notify the student no later than the date on which the decision was made to take that action. The agency will provide the student with an appropriate procedural safeguards notice.
  - b. No later than 10 days after the date on which the decision to act is made, the manifestation determination review must be conducted.
  - c. In conducting a manifestation determination, the IEP team will consider: evaluation and diagnostic results, including information provided by the student; observations of the student; and the student's IEP and placement.
7. The IEP team will only determine the student's behavior was not a manifestation of the disability, if all relevant information indicates that:
  - a. the student's IEP was appropriately developed and implemented and behavior intervention strategies were provided consistent with the student's IEP and placement;
  - b. the student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to the disciplinary action; and
  - c. the student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.
8. The behavior will be considered a manifestation of the student's disability if any of the standards in item 7 were not met.
9. If the behavior is not a manifestation of the student's disability, disciplinary procedures applicable to student without disability will apply except as provided in IDEA regulation § 300.121(d).

**Determination of interim alternative educational setting (IAES)  
[34 C.F.R. §§ 300.520-300.522]**

10. The public agency may order a student with a disability to an interim alternative educational setting (IAES) for weapons or drug violations for the same amount of time as that of a student without a disability, but not to exceed 45 days. The IAES will be:
  - a. determined by the IEP team;

- b. selected so as to enable the student to continue to participate in the general curriculum, and receive services specified in the IEP that will enable the student to meet the goals set out in that IEP [§ 300.520]; and
  - c. include services and modifications designed to prevent the behavior from recurring.
- 11. The public agency may request an expedited due process hearing to request that the student be moved to an appropriate IAES for not more than 45 days if the agency has substantial evidence that a student's current placement is likely to result in injury to the student or to others [§ 300.521]. Substantial evidence means beyond a preponderance of the evidence. This procedure may be repeated as necessary by the public agency.

**Parent appeal [34 C.F.R. § 300.525]**

- 12. If the student with a disability disagrees with the manifestation determination or any decision regarding the special ed placement, the students may request a hearing [§ 300.525].
- 13. The public agency will arrange an expedited hearing if the parent requests a hearing. In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of IDEA. In reviewing a decision to place the student in an interim alternative educational setting, the hearing officer shall apply the standards in § 300.521.

**Protections for student who are under the age of 18 and not yet eligible for special education and related services [34 C.F.R. § 300.527]**

- 14. The student may assert any of the protections provided to student with disabilities if the public agency had knowledge that the student was a student with a disability before the behavior occurred. The agency is presumed to have knowledge when:
  - a. the student had expressed concern in writing;
  - b. the student expressed concern orally if the student does not know how to read;
  - c. the behavior of the student demonstrated the need for the services, in accordance with § 300.7;
  - d. the teacher of the student or other personnel has expressed concern about the behavior or performance of the student to the director of special education of the agency or to other personnel in accordance with the agency's established student find or special education referral system; or
  - e. the student requested an evaluation.
- 15. The public agency is presumed not to have knowledge when the agency either:
  - a. conducted a full and individual evaluation for special education eligibility and found the student was not a student with a disability; or

- b. determined that an evaluation was not necessary and provided appropriate notice to the student's parents of its determination.
- 16. If a request for an evaluation is made during the time period in which the student is subjected to disciplinary action under §§ 300.520 or 300.521:
  - a. the evaluation will be conducted in an expedited manner; and
  - b. the student will remain in the placement determined by the school authorities until completion of the evaluation and eligibility determination.